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July 20, 2012

Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: USA v. City, Civil Action No.: 07 CV 2067 (NGG)(RLM)
Law Dept. No.: 2007-01744

Dear Judge Garaufis:

The City respectfully submits this letter in response to the United States' letter (Dkt. # 925) supporting Plaintiffs-Intervenors' Motion to Reconsider the Court's March 8, 2012 Order on Fringe Benefits (Dkt. # 912-913). The United States' letter should be stricken as an unauthorized and untimely attempt to file its own motion for reconsideration or join in the Plaintiffs-Intervenors' motion.

Local Civil Rule 6.3 requires that motions for reconsideration must be made within 14 days of the challenged order unless otherwise provided by the Court, statute or rule. The United States did not seek leave of the Court or the City's consent to an extension of the 14 day deadline. Therefore, it should not be permitted to join in Plaintiffs-Intervenors' timely motion under the guise of a letter of support.

Prior to the expiration of the 14 day period, Plaintiffs-Intervenors' timely requested and this Court granted their application for an extension of the filing period. March 22, 2012 Minute entry (On consent of the parties, the court directed the parties to submit a briefing schedule on, among other topics, Plaintiffs-Intervenors' motion for reconsideration.) No such extension request was made or granted on behalf of the United States. On April 4, 2012, the United States on behalf of all parties submitted a joint schedule for briefing all outstanding

remedial issues . . . and a joint timeline for the individual relief phase of the case.” Dkt. # 844. In that letter, the United States failed to include any dates for submissions by it on this issue. The proposed briefing schedule clearly set forth dates for the Plaintiffs-Intervenors’ motion, the City’s response and the Plaintiffs-Intervenors’ reply. It made no mention of a submission by the United States on this issue. On June 29, 2012, the day that the Plaintiffs-Intervenors’ papers were due, the United States unilaterally announced that it intended to submit a response to the Plaintiffs-Intervenors’ motion. (Dkt. # 914)

The City respectfully submits, therefore, that the United States letter in support of Plaintiffs-Intervenors’ motion to reconsider should be stricken as unauthorized and untimely.

Respectfully submitted,



Michael A. Cardozo

MAC/ay